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CO-ORDINATING COMMITTEE

S. General

ITEM NO. 1715(d)(1) - BORIC ACID AND SALTS ETC.Memorandum by the United Kingdom Delegation.

Experience in a recent prosecution against certain United Kingdom traders, charged with disposing of Borax to a concern in Eastern Germany, has brought to light a difficulty concerning the coverage of Borax by Item 1715(d)(1) which Her Majesty's Government think should be brought to the attention of the Committee.

2. Borax is embargoed by the words "Boric acid and salts (sodium)" in Item 1715(d)(1). The expert witness called by the defendants argued that these words did not describe borax; that "boric acid" invariably meant orthoboric acid only, whereas borax was the sodium salt of tetraboric acid. On the other hand, the prosecution argued that salts are the chemicals produced by the action of an alkali on an acid; that the action of sodium hydroxide on boric acid (orthoboric acid) results in the formation of borax and hence is a salt of boric acid. Further that "boric acid" although generally taken to mean orthoboric acid does in fact cover any boric acids and this is borne out by the fact that the heading excepts certain salts of "perboric acid", (i.e. perborates).

3. In the event the prosecution's case was proved, (and the defendants found guilty of the charges), but the exchanges have revealed this possible lacuna in the definition, which Her Majesty's Government consider it would be prudent to fill. All doubt could be avoided by putting the word "acid" in the plural where it appears in the definition of sub-item (d)(1). The amended definition would then read "Boric acids and salts (sodium etc.) and esters of boric acids".

4. The United Kingdom delegation invite the Committee to give their views on the change proposed in paragraph 3 above.

United Kingdom Delegation
Paris.

January 27, 1959.

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